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FISCAL IMPACT STATEMENT

LS 6158

BILL NUMBER: SB 6

NOTE PREPARED: Mar 1, 2006

BILL AMENDED: Feb 28, 2006

SUBJECT: Lifetime Parole for Child Molesters.

FIRST AUTHOR: Sen. Steele

FIRST SPONSOR: Rep. Ulmer

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Lifetime Parole and GPS Monitoring* -- It provides that a person who commits child molesting after June 30, 2006 and who was at least 18 years old at the time the person committed the offense must be placed on lifetime parole when the person's term of imprisonment is completed. It requires a person placed on lifetime parole to wear a GPS monitoring device if the person: (1) has a prior unrelated conviction for child molesting; or (2) is a sexually violent predator. It provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction.
- B. *Out-of-State Transfers* -- It specifies that a person convicted of child molesting in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole.
- C. *Supervision of the Person* -- It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.
- D. *Sexually Violent Predators* -- It requires parolees who are sexually violent predators to: (1) participate in treatment programs for sex offenders; and (2) avoid contact with persons less than 16 years of age.
- E. *Residency Restrictions* -- It prohibits a sex offender from obtaining a waiver for certain residency restrictions imposed as part of probation or parole.

- F. *Report from DOC* – It requires the Department of Correction to report to the budget committee before August 1, 2006 concerning the feasibility of recovering the expense of GPS monitoring from an offender. It requires the Department of Correction to report annually to the legislative council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency.
- G. *Sentencing Policy Study Committee* -- It requires the Sentencing Policy Study Committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (2) a classification system for sex offenders; (4) recidivism; and (5) treatment. It authorizes the Governor to appoint a board-certified psychologist or psychiatrist with expertise in treating sex offenders as a nonvoting advisor to the Sentencing Policy Study Committee.
- H. *Mandatory Nonsuspendible Sentence* – It provides a mandatory nonsuspendible 25-year sentence for certain child molesters who were at least 21 years old at the time of the offense, and prohibits the mandatory 25-year sentence from being reduced due to good time or other credit.
- I. *Restrictions on Adoptions and Guardianships* – It prohibits certain child molesters or sexually violent predators from adopting a child or being appointed as a guardian or custodian of a child.
- J. *Placement of Juveniles* – It requires certain juveniles who commit child molesting to be placed in the Department of Correction until they are 21 years of age.
- K. *Nonsuspendible "Child Batterer" Enhancement* – It permits the state to seek a 25-year nonsuspendible "child batterer" enhancement against a person who, at the time of the commission of the offense, was at least 21 years of age and who knowingly or intentionally inflicted severe bodily injury on a child less than 14 years of age. It provides that the "child batterer" enhancement may not be reduced due to good time or other credit. This bill also permits that expert testimony may be used as evidence that a person is a child batterer.

Effective Date: Upon Passage; July 1, 2006.

Explanation of State Expenditures: The most fiscally significant provisions of this bill include the following provisions and estimates:

- The requirement that offenders who are sentenced for child molesting who have a prior conviction for child molesting and offenders who are determined by a sentencing court to be a sexually violent predator will be required to wear a global positioning system (GPS) monitoring device for their lifetime. This could cost DOC an additional \$380,000 annually by 2015 if no changes occur in technology related to monitoring offenders.
- The requirement that any offender who is sentenced for child molesting after June 30, 2006, and is over 18 years of age at the time of the crime will be on lifetime parole could cost DOC an additional \$600,000 annually by 2025 if no changes occur in how paroled offenders are managed.
- Mandatory nonsuspendible sentence for certain child molesters who were at least 21 years old at the time of the offense would require DOC to have an estimated additional 1,725 beds by 2031.
- Nonsuspendible "child batterer" enhancement could increase the need for additional beds in DOC. The number of offenders that would be affected by these longer sentences was not able to be determined.

Since offenders who are sentenced for these crimes will generally spend at least 2.5 years in prison before being released, the fiscal effects from this bill will not occur until after 2010 when Class C felons will begin to be

released.

Little or no information is available at the state level about the number of offenders who have been determined by the courts to be sexually violent predators under IC 35-38-1-7.5. DOC estimates that less than 50 are currently either in DOC facilities or have been released and that roughly two offenders are determined to be sexually violent predators in any given year.

Predicting the future costs of providing these offenders with GPS monitoring and lifetime parole supervision is difficult due to changes in technology and organizational arrangements. The cost of GPS monitoring has decreased rapidly within the past five years, and the costs of actual staff monitoring may depend on the arrangements that the Department of Correction makes with local probation and community correction programs.

GPS Costs -- The immediate effect of this bill will be increased parole supervision costs from requiring repeat child molesters and sexually violent predators to wear a monitoring device. Since this bill only applies to crimes committed after June 30, 2006, the earliest that this bill could affect the Department of Correction would be in FY 2011 because offenders sentenced for child molesting are required to serve a minimum sentence. The following tables illustrate the potential costs associated with these requirements based on costs in 2006 for mandatory GPS monitoring.

Potential Costs of Mandatory GPS Monitoring for Offenders with Current Sentence of Child Molesting with Prior Child Molesting Sentence in 2006 Dollars					
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Class B Felons			10	20	26
Class C Felons	<u>21</u>	<u>42</u>	<u>55</u>	<u>67</u>	<u>80</u>
Added Child Molesters on Parole	21	42	65	87	106
Unit Costs of Global Position Monitoring	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600
Estimated Costs of Global Position Monitoring	\$75,600	\$151,200	\$234,000	\$313,200	\$381,600

Projected Costs for Lifetime Parole -- Both the staff costs for supervising offenders on parole and offenders who return to DOC because of parole violations could increase costs to DOC. Supervisory costs can take one of two forms for DOC. DOC may increase the number of parole officers to supervise these offenders or contract with probation or community corrections agencies to provide the supervision. If parole staff is increased to supervise more offenders, more staff would likely be needed beginning in 2020 when offenders who were released from DOC in 2010 finish their current 10-year maximum period on parole that they are required to serve under current law and begin this added lifetime parole. Currently, eight district offices have 91 parole officers and 36 other employees, including substance abuse counselors and support staff. The average annual parole population as of November 2005 was 8,144. Based on these statistics, the average number of offenders per parole officer is 90.

The following represents the added costs to the Department of Correction based on the average 2006 salary of \$50,100.

Potential Costs of Additional Offenders on Parole in 2006 Dollars			
	Year Felons Sentenced in 2007 Begin Lifetime Parole		
	<u>2020</u>	<u>2022</u>	<u>2025</u>
Class A Felons*			4
Class B Felons*		88	264
Class C Felons*	163	489	815
Added Child Molesters on Parole	163	577	1,083
New Probation Officers Needed**	2	6	12
Estimated Cost Based on 2005 Expenditures	\$50,100	\$50,100	\$50,100
Added Costs of New Probation Officers	\$100,200	\$300,600	\$601,200
*Assumes that 40% of original releases in 2007 have returned to DOC.			
**Based on 90 Offenders per Parole Officer.			

Violation of Lifetime Parole: There are no data available to indicate how many offenders on lifetime parole would be convicted of the Class D felony created under the bill for knowingly or intentionally violating the conditions of lifetime parole (that involves a child under 16 years of age or the victim of the child molesting offense) if the person's lifetime parole had been revoked two or more times, or if the person has completed the term of sentence. The offense may be increased to a Class C felony based on prior unrelated convictions.

Depending upon mitigating and aggravating circumstances, a Class C felony is punishable by a prison term ranging between 2 and 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years, and for all Class D felony offenders is approximately 10 months.

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292.

Sexually Violent Predators – This provision will require no additional resources from the Department of Correction. These sex offenders are determined to be sexually violent predators under IC 35-38-1-7.5 by a court proceeding. Sexually violent predators who are on parole would be required to participate in a treatment program for sex offenders. Sexually violent predators who do not participate will presumably not be eligible for parole and will be required to remain in a DOC facility for the remainder of their term of incarceration.

Under current parole rules, all sex offenders are required to participate in a Sex Offender Management and Monitoring Program as a condition of parole.

This program involves:

- Collaboration of specialized parole agents, and a network of credentialed sex offender treatment providers and polygraphers.
- Monitoring of a parolee's participation in community-based treatment and adherence to parole stipulations.
- Maintaining a tracking system to monitor outcomes, and tracking re-offenses by type.

Reports to Budget Committee and Legislative Council – The bill requires the DOC to report to the Budget

Committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender and provide annual reports to the Legislative Council. DOC should be able to provide this information within the existing level of resources. The bill also adds a topic to be examined by the Sentencing Policy Study Committee and requires that one board-certified psychologist or psychiatrist appointed by the Governor act as a nonvoting member of the Committee. The Sentencing Policy Study Committee consists of 19 members.

Placement of Juveniles – Mandatory placement of juvenile child molesters in DOC facilities until 21 years of age should be a minimum cost to DOC. Admissions and release data do not indicate that any juvenile has been committed to DOC for a Class A child molesting felony.

Mandatory 25-Year Sentence for Class A Child Molesters – Between 2001 and 2004, an average of 115 offenders have been committed to DOC facilities for Class A child molesting. For the same period of time, an average length of stay is 10 years.

Number of Offenders Committed to DOC for Class A Child Molesting by Calendar Year					
2000	2001	2002	2003	2004	5-Year Average
101	101	68	95	209	115

Increasing the mandatory number of years that an offender would be required to stay to 25 would increase the number of beds that DOC would need to provide beginning in 2017. By 2031, DOC would have to be able to provide an estimated 1,725 additional beds for offenders who remain in DOC facilities.

Explanation of State Revenues: *Violation of Lifetime Parole:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Monitoring of Offenders* – A portion of the costs associated with these systems can be offset from user fees collected from offenders on parole.

Violation of Lifetime Parole: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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